

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
NORTHEASTERN DIVISION**

KELVIN JONES,

Plaintiff,

v.

O'REILLY AUTOMOTIVE, INC.,

Defendant.

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Case No. 5:10-cv-02958-RDP

ORDER

On October 22, 2012, the magistrate judge filed his report and recommendation in the above-referenced case (Doc. # 43), recommending that this court grant Defendant's Motion for Summary Judgment (Doc. # 29). Although objections to the report and recommendation were due to be filed by November 6, 2012, *see* Fed. R. Civ. P. 72(b), no objections were filed.

Having now carefully reviewed and considered *de novo* all of the materials in the court file,¹ including the report and recommendation, the court is of the opinion that the report is due to be, and hereby is, **ADOPTED**, and the recommendation is **ACCEPTED**.

Defendant's Motion for Summary Judgment (Doc. # 29) is **GRANTED**. Defendant's Motion to Strike (Doc. # 37) is **MOOT**.

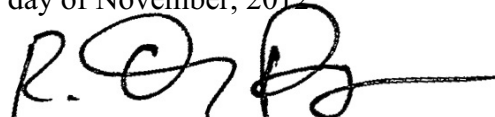
It is hereby **ORDERED, ADJUDGED, AND DECREED** that final judgment be entered in favor of O'Reilly Automotive, Inc. and against Plaintiff Kelvin Jones. This action is **DISMISSED**

¹ The court notes that it was not required to conduct an independent review of the report and recommendation in this case because no party has filed objections. Fed. R. Civ. P. 72(b); *Thomas v. Arn*, 474 U.S. 140, 150 (1985) ("It does not appear that Congress intended to require district court review of a magistrate's factual or legal conclusions, under a *de novo* or any other standard, when neither party objects to those findings."). Nonetheless, the court has reviewed the magistrate's report and agrees with his conclusions.

WITH PREJUDICE.

Costs are taxed against Plaintiff.

DONE and **ORDERED** this 20th day of November, 2012

A handwritten signature in black ink, appearing to read 'R. David Proctor', written over a horizontal line.

R. DAVID PROCTOR
UNITED STATES DISTRICT JUDGE